

**DEPARTMENT OF STATE REVENUE**

**LETTER OF FINDINGS NUMBER: 04-0010P**

**Sales & Use Tax**

**For the month of March 2003**

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superceded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

**ISSUE**

I. **Tax Administration** – Penalty

**Authority:** IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

The taxpayer protests the late penalty.

**STATEMENT OF FACTS**

The late penalty was assessed on the late filing of a monthly sales tax return for the month of March 2003.

The taxpayer is an out-of-state company.

I. **Tax Administration** – Penalty

**DISCUSSION**

The taxpayer requests the penalty be abated as the taxpayer's employee responsible for the tax filing had medical conditions that precluded the employee from filing the tax return on time.

The Department points out the taxpayer is responsible for tax compliance that includes the duties performed by the taxpayer's employees even if the employee has medical conditions that preclude the proper performance of tax duties.

45 IAC 15-11-2(b) states, "Negligence, on behalf of a taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the

Indiana Code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer.”

The Department finds the taxpayer was inattentive of tax duties. Inattention is negligence and negligence is subject to penalty. As such, the Department finds the penalty proper and denies the penalty protest.

**FINDING**

The taxpayer’s penalty protest is denied.